

Message Text

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ACTION ARA-10

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R 092225Z AUG 76

FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC 4715

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1. FOREIGN MINISTER FACIO HAS COME OUT STRONGLY IN FAVOR OF A DOUBLE TAXATION TREATY WITH THE UNITED STATES. HIS STATEMENT CAME IN THE FORM OF A LETTER TO "LA NACION" COMMENTING ON AN EDITORIAL ENTITLED "A TREATY THAT WE DO NOT NEED" WHICH APPEARED IN THE AUGUST 3 EDITION OF THE PAPER.

2. FACIO SAID THAT HE HAS BEEN WORKING FOR MANY YEARS, SINCE HE WAS AMBASSADOR TO WASHINGTON IN 1957, FOR A TREATY THAT WOULD AVOID DOUBLE TAXATION ON PROFITS EARNED BY AMERICAN FIRMS IN COSTA RICA. HE SAID THAT THIS EFFORT REPRESENTED JUST THE OPPOSITE OF WHAT HAD BEEN ALLEGED IN THE PRESS, NAMELY THAT COSTA RICA WAS ABOUT TO SIGN A TREATY THAT WOULD PERMIT THE U.S. TO TAX EARNINGS HERE. FACIO EXPLAINED THE DIFFERENCES BETWEEN TAX SYSTEMS THAT ASSESS CITIZENS AND RESIDENTS (AS IN THE U.S.) AND THOSE THAT TAX ALL INCOME GENERATED WITHIN THE COUNTRY (AS IN COSTA RICA) AND ASSERTED THAT THE RESULT IN THE CASE OF AMERICAN INVESTMENT IN COSTA RICA IS TO EXPOSE IT TO POSSIBLE DOUBLE TAXATION.

3. THE CONTROVERSY OVER A DOUBLE TAXATION TREATY BEGAN WITH LOCAL PRESS STORIES THAT COSTA RICA WAS ABOUT TO

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SIGN SUCH A TREATY WITH THE U.S. THE STORIES WERE BASED

ON A REPORT IN THE "WASHINGTON LETTER ON THE CARIBBEAN", A BIWEEKLY NEWSLETTER PUBLISHED BY CARIBBEAN PUBLICATIONS, NATIONAL PRESS BUILDING, WASHINGTON, D.C., WHICH STATED THAT THE U.S. TREASURY DEPARTMENT IS TRYING TO NEGOTIATE DOUBLE TAXATION TREATIES WITH ALL THE NATIONS OF THE CARIBBEAN AND HAS ALREADY NEGOTIATED ONE WITH COSTA RICA.

4. THE EMBASSY, IN RESPONSE TO PRESS INQUIRIES, STATED THAT NO DOUBLE TAXATION TREATY HAD BEEN NEGOTIATED BETWEEN THE U.S. AND COSTA RICA. THE EMBASSY STATEMENT SAID THAT COPIES OF SAMPLE DOUBLE TAXATION TREATIES HAVE BEEN PROVIDED TO THE GOCR AND THAT THE USG WOULD BE WILLING TO NEGOTIATE SUCH A TREATY IF THE GOCR DESIRES. THE EMBASSY STATEMENT ALSO INCLUDED A COMPLETE LIST OF COUNTRIES WITH WHICH WE HAVE SUCH TREATIES (EXTRACTED FROM "TREATIES IN FORCE") IN ORDER TO COUNTER IMPLICATIONS IN SOME PRESS ARTICLES THAT SUCH AGREEMENTS ARE CONTRARY TO THE INTERESTS OF MOST COUNTRIES AND THAT THOSE WHICH SIGN DO SO ONLY BECAUSE OF HEAVY U.S. PRESSURE.

5. THE DIRECTOR OF THE INCOME TAX OFFICE OF THE COSTA RICAN MINISTRY OF FINANCE, LIC. JUAN FAITH, TOLD THE PRESS, PRIOR TO THE FACIO STATEMENT, THAT HE WAS NOT AWARE OF ANY CONCRETE PROPOSAL FOR A DOUBLE TAXATION TREATY. HE ALSO CONVEYED THE IMPRESSION THAT HE MIGHT BE OPPOSED TO SUCH A TREATY BY OBSERVING THAT HONDURAS RECENTLY TERMINATED A SIMILAR TREATY UPON FINDING THAT IT WAS NOT IN ITS INTERESTS. A FOREIGN MINISTRY CONTACT EXPRESSED SURPRISE TO THE EMBASSY AT FAITH'S STATEMENT BECAUSE THE MATTER HAD BEEN CLEARED WITH THE TAX OFFICE BEFORE INFORMING AMBASSADOR SILVA THAT HE COULD UNDERTAKE DISCUSSION WITH THE U.S. LOOKING TOWARD A POSSIBLE TREATY.

6. COMMENT - FACIO'S STATEMENT APPEARS TO CLEAR UP SOME OF THE MISUNDERSTANDING ABOUT A DOUBLE TAXATION TREATY AND TO SUGGEST THAT THE GOVERNMENT IS IN FAVOR OF MOVING AHEAD ON THE NEGOTIATIONS. IF THE USG WISHES TO MOVE FORWARD, IT WOULD BE ADVISABLE TO MOVE RAPIDLY IN ORDER LIMITED OFFICIAL USE

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TO TAKE ADVANTAGE OF FACIO'S STRONG SUPPORT BEFORE HE LEAVES OFFICE TO ENTER THE PRESIDENTIAL CAMPAIGN. HE MAY RESIGN BY THE END OF SEPTEMBER. AMBASSADOR SILVA ALSO REPORTED TO BE STRONGLY IN FAVOR OF A TREATY. FACIO'S STATEMENT DID MENTION AT SOME LENGTH ONE POINT THAT COULD BE A COMPLICATING FACTOR IN THE NEGOTIATIONS - HE SAID THAT THE PENSIONS PAID BY UNITED BRANDS (FORMER UNITED FRUIT COMPANY) TO

EMPLOYEES WHO HAVE WORKED ALL THEIR LIVES IN COSTA
RICA SHOULD BE EXEMPT FROM U.S. WITHHOLDING AND INCOME
TAXATION.
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